Case 1:95-cr-10355-NMG Document 38 Filed 01/18/11 Page 1 of 3 UNITED STATES DISTRICT COURT

DISTRICT OF MASSACHUSETTS

UNITED STATES OF AMERICA))	
v.)	CRIM. NO. 95-10355-RCL
)	
RICHARD J. GEORGE)	
Defendant)	
)	

PETITION FOR WRIT OF ERROR CORAM NOBIS

Now comes plaintiff Richard J. George and, pursuant to 28 U.S.C. § 1651, respectfully petitions the court for a writ of error coram nobis. As reason therefore, petitioner says that his conviction in the above-entitled matter rested on legal and factual errors which are fundamental to the validity of the judgment; that that he continues to suffer collateral consequences of his guilty plea and conviction; that he has previously sought relief in a similar petition filed in this court on October 29, 2004, the denial of which was summarily affirmed by the Court of Appeals on May 11, 2007 (No. 06-2010); and that he files this new petition as a result of the decision of the Supreme Court in Skilling v. United States, 561 U.S. , 130 S.Ct. 2896 (2010).

Petitioner completed his committed sentence of 20 months, his supervised probation of 2 years, his 200 hours community service, and has paid the \$10,000 fine and mandatory assessment imposed, and may not seek post conviction relief under 18 U.S.C. § 2255, making coram nobis the appropriate remedy to vacate his conviction.

Petition incorporates herein the <u>Affidavit of Richard J. George in Support of Petition for Writ of Error Coram Nobis</u>, and the <u>Memorandum of Law Supporting the Petition of Richard J. George for Writ of Error Coram Nobis</u>.

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The conviction imposed following petitioner's guilty plea to a one count Information

charging a conspiracy to commit wire fraud in violation of 18 U.S.C. § 371, inflicts collateral

consequences upon him which he specifically endeavored to avoid prior to his plea. Those

consequences, the suspension of his state pension by the State Board of Retirement, could not

have been foreseen at the time of his plea. In fact, he continued to collect his retirement benefits

during his incarceration, while on supervised release, and up to January 1, 2003, when his

benefits were suspended as a result of this conviction.

Petitioner's guilty plea suffered from fundamental defects because the government

conceded that it could not prove that the defendant knew that the blank search warrants in

question would be used to commit home invasions; and the government further conceded that,

absent petitioner's guilty plea, he could not be prosecuted. Furthermore, petitioner's conduct did

not violate 18 U.S.C. 1346 in that it did not involve bribery or a kickback. These shortcomings

rendered petitioner's conduct non-criminal and his conviction a nullity.

Petitioner has served his sentence and paid his fine. He is now suffering significant

unanticipated collateral financial consequences as a result of his conviction. Because of the

errors in his prosecution and in the plea proceedings which are fundamental to the validity of the

judgment of conviction, petitioner respectfully requests that the court consider this petition in

view of Skilling v. United States and issue the writ.

Petitioner respectfully requests that he be granted a hearing on this petition.

Dated: January 18, 2011

Respectfully submitted,

RICHARD J. GEORGE

By his attorney,

/s/ Bruce T. Macdonald

Bruce T. Macdonald

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CERTIFICATE OF SERVICE

I, Bruce T. Macdonald, attorney for defendant herein, hereby certify that the foregoing Petition for Writ of Error Coram Nobis, and Memorandum of Law Supporting the Petition of Richard J. George for Writ of Error Coram Nobis, and Affidavit of Richard J. George in Support of Petition for Writ of Error Coram Nobis, were served via ECF filing to all registered participants on this 18th day of January, 2011, and further that copies of said documents were mailed to: U.S. Attorney's Office, John Joseph Moakley U.S. Courthouse, 1 Courthouse Way, Suite 9200, Boston, MA 02210, on January 18, 2011.

Dated: January 18, 2011 /s/ Bruce T. Macdonald